

## Why You Should Attend This Comprehensive Course

The regulatory framework that governs environmental matters in Ontario is complex. The federal government, provincial government and municipal governments all play roles in both regulation and enforcement. Plus, within the federal and provincial governments, there are multiple ministries responsible for regulating the environment. And, at every level of government, there are recent, substantial changes to legislation.

### These complexities raise many questions:

- How do you navigate the maze of rules and departments?
- How do you know what level of government to contact about an issue?
- What agencies are responsible for what matters?
- How do you keep up-to-date with changing regulations?

This course is designed to provide a guide to understanding and working within the framework of environmental law in Ontario. It will give you the background and information you need to tackle the tough questions such as:

- How to protect your organization by mastering due diligence
- How to identify the critical compliance issues for your industry
- What should you do when an investigator knocks?
- Avoiding liability for pollution offences
- How and why to implement an EMS

Whether you are new to the area or just want a comprehensive refresher, this course will provide you with the information you need to achieve compliance with Ontario's environmental laws and regulations.

Delegates will also benefit from the **extensive written materials** prepared for this conference, which will provide a valuable resource long after the conference is over.

Places will go quickly, so register today by calling *The Canadian Institute* at 1-877-927-7936 or in Toronto, (416) 927-7936, by faxing your registration to 1-877-927-1563 or (416) 927-1563, or by using our online registration service at [www.CanadianInstitute.com](http://www.CanadianInstitute.com).

## THE COURSE LEADERS



*Marc McAree is a partner with Willms & Shier Environmental Lawyers. He is also a trained mediator. He provides advice to industries, commercial clients and municipalities on all aspects of contaminated land, environmental compliance and approvals, and environmental risk management. He also represents clients in civil litigation matters, defends them against environmental prosecutions and appears before administrative tribunals.*



*Barry Spiegel is Director of Research and Professional Development at Willms & Shier Environmental Lawyers. His law practice focuses on compliance with federal and provincial environmental laws, regulations and policies. Barry writes, presents and conducts corporate training on environmental law issues. He is the Environmental Law columnist for The Lawyers Weekly and principal author of the Canadian Environmental Compliance Manual (CCH Canadian Limited).*

## GUEST SPEAKERS

*Colleen Fitzgerald-Hubble, M.Sc., P.Eng., is an air quality specialist with Rowan Williams Davies and Irwin, and has wide experience in conducting air quality assessments. Colleen has coordinated numerous large projects involving Certificate of Approval applications, emissions inventories, and dispersion modeling.*

*Ron Quipp was employed as an Environmental Officer with the Ontario Ministry of the Environment for 30 years. Ron spent his first eleven years as an inspector. For the last 18 years Ron was an Investigator with Investigations and Enforcement Branch (I.E.B.) investigating and participating in prosecution of environmental offences. Ron is now the principal of Quipp Environmental Consultants with an interest in Environmental Compliance Auditing, Environmental Legislative Training and Certificates of Approval.*

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A Canadian Institute Course

# FUNDAMENTALS OF ENVIRONMENTAL LAW IN ONTARIO

May 5 and 6, 2004

Metropolitan Hotel Toronto, 108 Chestnut Street, Toronto



From: *The Canadian Institute*  
1329 Bay St., 3rd Floor  
Toronto, Ontario, M5R 2C4



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YES! Please register the following delegate(s) for  
**FUNDAMENTALS OF ENVIRONMENTAL LAW IN ONTARIO**  
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### FEE PER DELEGATE

Conference \$1599 + \$111.93 (7%) GST = \$1710.93

I cannot attend but would like information regarding conference materials

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### PROGRAM MATERIALS

Conference participants will receive a comprehensive set of conference materials prepared by the speakers. These materials are intended to provide the participants with an excellent reference source after the conference. Materials will be distributed 1 hour prior to the conference.

### HOTEL RESERVATIONS

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### VOLUME DISCOUNT

Any firm or company registering three people at the same time will be entitled to a fourth registration free of charge.

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A Canadian Institute Course

# FUNDAMENTALS OF ENVIRONMENTAL LAW IN ONTARIO

A Comprehensive, Practical Guide to  
Environmental Law, Regulation and Compliance

May 5 and 6, 2004

Metropolitan Hotel Toronto, 108 Chestnut Street, Toronto

## COURSE LEADERS



**Marc McAree**  
Partner, Willms & Shier  
Environmental Lawyers



**Barry Spiegel**  
Director of Research and  
Professional Development  
Willms & Shier  
Environmental Lawyers

This intensive program, led by highly experienced environmental lawyers, will enable you to:

- Unravel the maze of government organizations and ministries that regulate environmental matters
- Ensure that you are not missing any required permits or authorizations
- Learn where enforcement efforts are being directed and which penalties have become the toughest
- Hear what investigators consider when searching for evidence
- Get a clear picture of who is suing whom, and why — and how to minimize potential liability

And much, much more...

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# A Canadian Institute Course

# FUNDAMENTALS OF ENVIRONMENTAL LAW IN ONTARIO

A Comprehensive, Practical Guide to Environmental Law, Regulation and Compliance

May 5 and 6, 2004

Wednesday, May 5, 2004

8:00 Registration Opens  
Coffee Served ☕

9:00 Course Begins

**Marc McAree**  
**Barry Spiegel**  
Willms & Shier Environmental Lawyers

#### What You Need to Know About Environmental Law and Why

- Due diligence: protecting yourself and your organization
- Due diligence and the executive: avoiding personal liability of directors and officers
- Due diligence as a defence to environmental prosecutions
- What must be established in order to succeed with a due diligence defence?
- Beyond due diligence: other benefits of knowing environmental law

#### Environmental Law: The Framework

- Jurisdiction: how the levels of government share enforcement and compliance responsibilities
- Pollution prohibitions: regulatory offences
- Regulated activities: requirements for permits, licenses and approvals
- Regulatory orders: government powers to require compliance
- What is law and what is not: the interaction between laws, regulations, standards, objectives, policies, and guidelines
- The important role of land use planning laws and regulators
- How civil law and environmental lawsuits fit into the framework

#### Who Does What? Key Organizations, Agencies and Enforcement Bodies

##### The Federal Government

- Environment Canada: international matters, regulating manufacture, import and export of toxic substances, new substances, pollution prevention, environmental emergencies
- Department of Fisheries and Oceans (DFO): *Fisheries Act*
- Transport Canada: movement of dangerous goods by water, air, rail and road

- Other federal agencies: Health Canada, Agriculture Canada, Industry Canada, Canadian Coast Guard

##### The Ontario Government

- The Ontario Ministry of the Environment (MOE): divisions, branches, regional and district offices
- The Ontario Ministry of Natural Resources (MNR): involvement with the forestry, fishing and aggregate industries
- The Ontario Ministry of Agriculture and Food: the *Nutrient Management Act, 2002*
- The Ontario Ministry of Municipal Affairs: role in land use planning / environment
- Other provincial ministries and agencies: Ministry of Northern Development and Mines; Ministry of Energy; Ministry of Public Infrastructure Renewal
- The Technical Standards and Safety Authority Inc.: fuels safety

##### Municipalities

- From the Fire Chief to conservation authorities: municipal agencies with environmental responsibilities

#### Water Issues: Navigating the Regulatory Framework

- Overview of governing legislation and authorities
- Definition of "waters" under the *Ontario Water Resources Act*
- When do you need a permit to take water?
- When is a Certificate of Approval required for treating water or discharging effluent?
- Provincial Policy Statement relating to water, sewers, wetlands and contaminated sites
- Land use planning, source water and groundwater protection
- Drinking water: role of Medical Officers of Health
- *Safe Drinking Water Act*
- Drinking-Water Systems Regulation
- Municipal sewer use by-laws: significant regulations affecting industrial and commercial discharges
- Conservation Authorities: watercourse alteration, fill, flood control and watercourse quality
- Fish habitat management, DFO and MNR
- *Nutrient Management Act, 2002*
- Watershed-based source protection
- Septic systems: responsibility downloaded to municipalities

#### Waste and Hazardous Materials: Who's Responsible for What?

- Overview of regulations governing transportation, storage and disposal of waste, Ontario Reg. 347, federal *Transportation of Dangerous Goods Act, Canadian Environmental Protection Act (1999)*
- Waste classification
- Hazardous waste and special substances
- Testing, documentation, registration and reporting requirements
- Hazardous materials labeling: WHMIS, TDGA transportation placarding

12:30 — 1:45 Networking Luncheon 

#### Key Air Issues: Compliance with the Expanding Regulatory Regime

- The federal, provincial and municipal legal framework that governs air emissions
- Emerging emission caps and trading
- Reporting requirements for air emissions under the federal National Pollution Release Inventory (NPRI)
- Provincial air emissions: new reporting requirements: O. Reg. 127/01
- Public right to information: NPRI, pollutionwatch.org, OnAIR, access to information legislation

#### Certificates of Approval: A to Z

- What triggers requirements for Certificates of Approval
- Overview of application process
- Regulatory effectiveness measures such as AER's, Emitter Accountability
- Development and significance of the site-wide Certificate of Approval process
- Keys to successful applications
- Tips for streamlining approvals

#### Air Standards and Modeling: Where Law and Science Meet

**Colleen Fitzgerald-Hubble M.Sc., P.Eng**  
**Air Quality Specialist, Rowan Williams Davies & Irwin Inc.**

- Provincial air standards and objectives
- Ontario's proposed Risk Management Framework for Air Standards
- New dispersion models: how will they affect your compliance?

- Emissions monitoring and potential pitfalls
- Emission inventories: a new requirement and multi-purpose tool

5:00 Course Adjourns

Thursday, May 6, 2004

9:00 Course Resumes

#### Environmental Assessments: When Are They Needed? What Has To Be Done?

##### Federal Assessments

- When is a federal environmental assessment required?
- What is a "project" for the purposes of the *Canadian Environmental Assessment Act*?
- What is the "scope of a project"?
- Who is a "responsible authority"?
- Comprehensive study requirements and public hearings
- Relationship between federal and provincial assessment requirements
- What factors determine the costs of assessments?

##### Provincial Assessments

- When is an assessment required under Ontario's *Environmental Assessment Act*?
- Class environmental assessments v. individual environmental assessments
- Public consultation and Terms of Reference
- Cost considerations

#### Contaminated Land: Issues for Industry

- When can an owner be required to clean up contaminated land?
- Can an innocent owner be compelled to clean up?
- Impact of contamination on refinancing, plant expansion, sale of business, balance sheet
- Environmental Site Assessments: what is involved in Phase I and Phase II assessments
- Overview of rules governing clean-up
- Ontario's new Brownfields legislation: does it provide an "exit ticket"?
- Site Specific Risk Assessments: when are they the only reasonable clean-up option?

- What to do if you discover contamination on your industrial site
- What to do if your neighbour claims your company contaminated his site
- Dealing with the cost, complexity and uncertainty of civil lawsuits
- Contaminated land transactions
  - due diligence
  - managing risk

#### Environmental Litigation: Who is Suing Whom, and Why?

- Grounds for starting environmental litigation:
  - negligence, trespass and nuisance
  - s. 99 of the *Environmental Protection Act*, (the "Spills Bill")
  - s. 84 of the *Environmental Bill of Rights*
- Overview of litigation procedures
- Possible outcomes: damages, costs, declarations, injunctions and more
- Insurance coverage: what can be covered? How much is enough? What pollution exclusions exist?
- Ontario's new *Limitations Act, 2002*

#### Pollution Offences and Penalties: Avoiding Liability and Achieving Compliance

- Offences under the *Environmental Protection Act*:
  - definition of "discharge" and "spill"
  - what are "contaminants and pollutants" under the *EPA*?
  - the test for harm: "adverse effects"
- Offences relating to air, water, waste disposal and sewage
- Offences under municipal sewer use by-laws, and how they can lead to provincial prosecutions too
- Offences involving dangerous goods or hazardous materials and transportation
- Other provincial and federal offences
- Maximum penalties for individuals and corporations, plus victim surcharges
- Factors affecting sentencing
- Establishing a "due diligence" defence
- Administrative Monetary Penalties (AMPs)

12:30 — 1:45 Networking Luncheon 

#### Enforcing The Law: Inspections, Investigations and Prosecutions

**Ron Quipp**  
Quipp Environmental Consultants  
Former MOE IEB Investigator

- Powers and practices of provincial inspectors
- Provincial investigators (IEB): roles and responsibilities
- What investigators look for and how charges are laid
- SWAT Team
- What to do when the Investigator knocks?

#### Regulators, Court and Tribunals

- Beyond the MOE: others with enforcement authority
  - Federal officers
  - TSSA inspectors
  - Fire Officials
  - Medical Officer of Health
  - Building Officials
  - By-law enforcement officers
  - Conservation authorities
- Environmental Review Tribunal, Ontario Municipal Board, Normal Farm Practices Protection Board, Mining and Lands Commission, Energy Board
- Structure and role of the criminal and civil courts

#### Regulatory Orders: What You Need to Know

- Personal liability: who is subject to orders
- Minister, Director orders under *EPA*
- Provincial officer orders
- Orders under other statutes: *OWRA*, *Fisheries Act*, *TSSA*
- Work you can be ordered to do
- What to do when you get an order: reviews and appeals
- When the Government can do the work and order you to pay the costs

#### Environmental Management Systems: How and Why to Implement an EMS

- Role of Environmental Management Systems (EMS) in supporting a due diligence defence
- Most common types of EMS, including ISO 14001
- Requirements for documentation, demonstrating compliance, emergency response planning
- Case studies to consider

5:00 Course Concludes

**WHAT DELEGATES SAID ABOUT THIS PROGRAM LAST YEAR:**

*"Good mix of speakers, lots of material, excellent use of case studies and stories from real life."*

Terry Brown  
Environmental Officer  
Bruce Power

*"Very informative, well prepared."*

Don Rodzik  
Human Resources Manager  
Narmco Group

*"Gave a good overview of environmental law to apply to a variety of circumstances."*

Lisa O'Hara  
Environmental Specialist  
Halla Climate Control  
Canada Inc.